

Appl. No. 10/816,036
Reply to Office Action dated August 18, 2009
Reply dated December 18, 2009

AMENDMENTS TO THE DRAWINGS

FIG. 3 was amended to correct formal matters and/or to correct reference numbers in the figures. Replacement sheet is appended herewith.

Attachment: Replacement Sheet

REMARKS

CLAIM REJECTIONS

35 USC 103

Claims 1, 4, 6, 8-11, 14, 16, and 18

The Office rejected claims 1, 4, 6, 8-11, 14, 16, and 18 under 35 USC 103(a) as being unpatentable over US Patent 5,620,120 to Tien ("Tien") in view of US Patent 6,546,103 to Wong ("Wong"), and further in view of US Patent 5,904,872 to Muller ("Muller"). Claims 1 and 11 are independent claims from which 4, 6, 8-10, 14, 16, and 18 depend.

The Applicant is of the opinion that the Office has not provided sufficient evidence to support a prima facie case for obviousness. To establish a case of obviousness, first, there must be some suggestion or motivation to modify the reference; second, there must also be a reasonable expectation of success; and third, the reference must teach or suggest all the claim limitations. (MPEP Section 706.02(j)). All three elements must be satisfied; otherwise the case for obviousness fails.

Tien, Wong, and Muller, alone or in combination do not provide a suggestion or motivation to combine the references asserted against claim 1. In fact Tien teaches away from combining Wong and Muller with Tien to derive the subject matter of claim 1. The Office states that Tien discloses the mounting apparatus and the holstering system of claim 1. (Office Action: Page 2). The Office additionally states that Tien fails to disclose the tether housing, the lanyard attachment, and the lanyard loop of claim 1. (Office Action: Pages 2-3). In

response to Tien failing to teach these limitations of claim 1, the Office cites Wong as teaching the tether housing of claim 1, and Muller as teaching the lanyard attachment and the lanyard loop of claim 1. The Office thereby concludes that it would have been obvious for a person of ordinary skill in the art to combine the teachings of Wong and Muller with Tien to derive the subject matter of claim 1.

Tien teaches away from "a tether housing having an internal tether that is extendable from said tether housing under a pulling force..." (Claim 1). Tien teaches an engaging means 32 comprising a "substantially elliptic plate 321 and a neck 322 ... the neck 322 will pass through the cutout 100 [of socket 10]." (Tien: Col. 2, lines 64-65 and Col. 3, lines 36-37). After the engaging means is passed through the cutout 100, the engaging means 32 comes into contact with the C-shaped portion 122. The portable telephone is then turned 90 degrees such that the long axis 323 of the substantially elliptical plate 321 is substantially perpendicular with the cutout 100. A firm connection is present because the cutout 100 is narrower than the C-shaped portion 122 which prevents the engaging means 32 from sliding through the cutout 100 when the long axis 323 is not parallel with the cutout 100. The firm connection thereby prevents the portable phone attached to engaging means 32 from being lifted up from the socket 10 and being dropped - the purpose being to prevent the phone from "extend[ing] under a pulling force." (See Claim 1). This teaches away from combining with the tether housing of Wong because it would defeat the purpose of having a firm connection.

In a subsequent embodiment, Tien also discloses a switch 13 that can be added to the base plate 11. Switch 13 allows:

users who have to crouch from time to time during working are apt to turn his/her leather pouch 30 to a ready to move position (see FIG. 2) for comfort, therefore, the leather pouch 30 together with the portable telephone are apt to be lifted up from the socket 10 and drop." (Tien: Col. 3, line 63-Col. 4, line 1).

The switch 13 can be placed in a "'locking' status preventing the portable telephone from dropping from the socket 10." (Tien: Col. 4, lines 50-51). By utilizing the switch 13 to prevent the portable telephone from dropping from the socket 10, Tien has countered the possibility of the portable phone becoming separated from the socket 10, and thereby teaches away from a tether housing having an internal tether, as required in claim 1.

In light of the teachings of Tien, a person of ordinary skill in the art would not be motivated to modify Tien to incorporate the teachings of Wong and Muller because Tien teaches a firm connection that prevents the portable phone from being separated from the socket, and a switch 13 that can be placed in a locking status further preventing the portable telephone from dropping.

Because the cited references fail to provide some suggestion or motivation to modify Tien as proposed by the Office, claim 1 is not rendered obvious by the cited references; claim 1 is otherwise allowable.

Claims 4, 6 and 8-10 depend from allowable claim 1 and are allowable for at least the same reasons as claim 1.

Claim 11 has a limitation similar to claim 1 and the Applicant submits that the arguments for patentability of claim 1 apply to claim 11 with equal force. Thus, claim 11 is not

rendered obvious by the cited references. Claim 11 is otherwise allowable.

Claims 14, 16, and 18 depend from allowable claim 11 and are allowable for at least the same reasons as claim 11.

Claims 7 and 17

Claims 7 and 17 are rejected under 35 USC 103(a) as being unpatentable over Tien in view of Wong and Muller, and further in view of US Patent 5,513,785 to Campagna ("Campagna").

Claim 7 depends from allowable independent claim 1 and is allowable for at least the same reasons as claim 1.

Claim 17 depends from allowable independent claim 11 and is allowable for at least the same reasons as claim 11.

For at least the reasons stated herein, Applicant requests the withdrawal of the rejections of claims 1, 4, 6-11, 14, and 16-18 under 35 U.S.C. 103(a).


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CONCLUSION

Applicant submits that claims 1, 4, 6-11, 14, and 16-18 are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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